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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,250	09/28/2001	Michael J. Mullane	MJM-50X	6233

7590 12/20/2002

CHRISTOPHER JOHN RUDY  
209 HURON AVE., STE. 8  
PORT HURON, MI 48060

EXAMINER

THISSELL, JENNIFER I

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/967,250

Applicant(s)

MULLANE, MICHAEL J.

Examiner

Jennifer I Thissell

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Information Disclosure Statement***

The Provisional Application 60/241,627 that was listed on the information disclosure statement filed January 2, 2002 has not been considered as to the merits, since this information does not qualify as a U.S. Patent.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Cline (U.S. Patent No. 6,266,929). Cline teaches a snow stop 1 with a base member 3 that has an underside 15, there is a restraining member 17 connected to a top side of the base member, there are a plurality of holes

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through the base member (column 5, lines 1-2), and there are grooves 31 on the underside of the base member.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline ('929). Cline teaches a snow stop as stated above, but does not show crosshatch configured grooves. Because Cline teaches grooves that perform the same function as applicant's crosshatch grooves, which is to allow for curing and outgassing of the an adhesive as well as provide increased surface area and texture for increased holding power, the grooves are considered functional equivalents. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use any variation of groove shape in the bottom of the base. Also, applicant discloses in his specification (page 9) that the grooves may have differing sizes and/or shapes, which indicate a lack of criticality of the specific type of grooves that are present. Cline also teaches a brace support 21 that supports the restraining member, and glue "rivets" would inherently form in the holes with

cured adhesive since the adhesive would spread into any crevice in the base when the element is being pressed into place.

Regarding claim 4, Cline teaches a base member 3, a restraining member 17 connected to a top side of the base member, wherein the restraining member has intersecting upstanding members 17,19,27 that are at an angle normal to each other.

Cline does not show a round base member. However, since applicant indicates in his specification (page 9) that the shape and the dimensions of the snow stop may vary, that any other suitable shape of size of the device and the components may be employed, and there is no indication of criticality of the round shape found, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize any well known shape for the base, as a matter of obvious design choice. A circular base member may appear aesthetically pleasing to someone who prefers more of a compact appearance.

Cline shows one convex upstanding member (at 49), while the other members 19,21 are concave and not convex. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have all support members be convex in shape, since Cline already shows one portion of the upstanding members as convex and he states (column 4, lines 59-60) that the shape of the support members may be adjusted. Having all the members convex would increase the load capacity of the elements since this

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would increase the amount of surface area that would hold the snow against movement.


### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer I Thissell whose telephone number is (703) 306-5750. The examiner can normally be reached Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (703) 308-0839. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JIT  
December 14, 2002

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600